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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/839,784	04/20/2001	Marco A. DeMello	MSFT-0262/155698.1	1999

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EXAMINER

TANG, KUO LIANG J

ART UNIT	PAPER NUMBER
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2122

DATE MAILED: 07/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/839,784

Applicant(s)

DEMELLO ET AL.

Examiner

Kuo-Liang J Tang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This Office Action is in response to the amendment filed on 5/24/2004.

The declaration filed on 5/24/2004 under 37 CFR 1.131 is sufficient to overcome the Jellum reference.

The priority date for this application is 08/07/2000.

Claims 1-30 are pending and have been examined.

Claims 1, 5, 8, 14-15, 23 and 27 remain rejected under 35 U.S.C. 102(a) as being anticipated by Horstmann, US Patent No. 6,363,356.

Claim 28 remains rejected under 35 U.S.C. 102(a) as being anticipated by Kikinis et al. US Patent No. 5,835,732 (hereinafter Kikinis).

Claims 2-4 and 29-30 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Horstmann in view of Carolan et al. US Patent No. 6,753,887 (hereinafter Carolan).

Claims 6-7 and 24-26 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Horstmann in view of Bates et al. US Patent No. 6,037,935 (hereinafter Bates).

Claims 9-10 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Horstmann in view of Philyaw US Patent No. 6,636,896.

Claims 11-13 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Horstmann in view of Chanos et al. US 2002/0120507A1 (hereinafter Chanos).

Claim 16 remains rejected under 35 U.S.C. 103(a) as being unpatentable over Horstmann in view of Bukszar et al. US Patent No. 6,133,916 (hereinafter Bukszar).

Claims 17-22 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Horstmann in view of Bukszar , further in view of Philyaw.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1, 5, 8, 14-15, 23 and 27 are rejected under 35 U.S.C. 102(a) as being anticipated by Horstmann, US Patent No. 6,363,356.

As Per Claim 1, Horstmann teaches that the invention makes possible an associates program for electronic content distribution by providing a mechanism whereby a referrer may be identified at the time of purchase in a download-then-pay system. (E.g. see Abstract and associated text). In that Horstmann discloses the method that covering the steps of a method of branding a computer program comprising the acts of:

“receiving an indication (E.g. see col. 4:42-62) that a first copy of a computer program (E.g. see col. 4:43, electronic content) has been downloaded (E.g. see col. 4:43, download) to a first computing device (E.g. see col. 4:45, end user machine) and that said first copy is to be branded with information associated with a first entity (E.g. see col. 4:42-62, identifying information);” (E.g. see Fig. 4 and associated text, e.g. see col. 4:42-62);

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“transmitting first data indicative of said first entity to said first computing device;” (E.g. See Fig. 4, identifying information 405 and associated text);

“receiving said first data from said first computing device;” (E.g. See Fig. 4, identifying information 409 and associated text) and

“providing first branding instructions to said first computing device.” (E.g. see col. 4:11-13).

As Per Claim 5, the rejection of claim 1 is incorporated and further Horstmann teaches:

“providing a directory to said first computing device, said directory including a first link to a web site associated with said first entity.” (E.g. see col. 2:62 - col. 3:8). The information is included in a file stored in the user machine. A directory is inherent so that a file can be saved in one of the file directories.

As Per Claim 8, the rejection of claim 1 is incorporated and further Horstmann teaches:

“receiving an indication that a second copy of said computer program has been downloaded to a second computing device and that said second copy is to be branded with a second entity different from said first entity; transmitting second data indicative of said second entity to said second computing device; receiving said second data from said second computing device; and providing second branding instructions to said first computing device, said second branding instructions being different from said first branding instructions.” (Again, as noted above of Claim 1, also see Fig. 2, “WEB SITE1” and “WEB SITE2” and associated text).

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As Per Claim 14, the rejection of claim 1 is incorporated and further Horstmann teaches:

“A computer-readable medium having computer-executable instructions to perform the method of claim 1” (E.g. see col. 6:4-9).

As Per Claim 15, Horstmann teaches a method of branding a computer program that has been provided to a first computing device by a first entity, comprising the acts of:

“receiving information indicative of a first entity (E.g. see Fig. 4 , “referrer info” and associated text)”;

“providing branding data based on said received information to a first computing device for durable storage on said first computing device (E.g. See Fig. 4, identifying information 405 and associated text)”;

“following said act of providing branding data, receiving said stored branding data from said first computing device (E.g. See Fig. 4, identifying information 409 and associated text)”;

and

“providing branding instructions to said first computing device based on said received branding data (E.g. see col. 4:11-13)”.

As Per Claim 23, the rejection of claim 15 is incorporated and further Horstmann teaches:

“receiving a fee from said first entity as a pre-condition for providing either said branding data or said branding instructions.” (E.g. see col. 3:37-40).

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As per Claim 27, the rejection of claim 15 is incorporated and is rejected under the same reason set forth in connection of the rejection of claim 14.

3. Claim 28 is rejected under 35 U.S.C. 102(a) as being anticipated by Kikinis et al. US Patent No. 5,835,732 (hereinafter Kikinis).

As Per Claim 28, Kikinis discloses a method for distributing a variation of software through one of a plurality of entities, comprising:

“providing a standardized version of software (E.g. see col. 12: 52-57)”; and

“providing a customized version of said software as a function of one of a plurality of entities (E.g. see col. 12: 40-42)”. In fact, as shown in FIG. 1, the content partners(500) means more than one entities.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-4 and 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horstmann in view of Carolan et al. US Patent No. 6,753,887 (hereinafter Carolan).

As Per Claim 2, the rejection of claim 1 is incorporated and further Horstmann does not explicitly disclose displaying a logo associated with said first entity. However, Carolan in an analogous art teaches "providing instructions to said first computing device which cause said first copy of said computer program to display a logo associated with said first entity". (E.g. see FIG. 3, brand indicia 795, FIG. 6, step 409 and associated text). Therefore, it would have been obvious to incorporate the teaching of Carolan into the teaching of Horstmann to display a logo associated with said first entity. The modification would have been obvious because one of ordinary skill in the art would have been motivated so that the logo (brand indicia) are presented to the user according to the branding data each time the corresponding entity is accessed.

As Per Claim 3, the rejection of claim 1 is incorporated and further Horstmann does not explicitly disclose displaying a first link to a web site associated with said first entity. However, Carolan in an analogous art teaches "providing instructions to said first computing device which cause said first program to display a first link to a web site associated with said first entity". (E.g. see FIG. 3, brand indicia 795, FIG. 6, step 409 and associated text). Therefore, it would have been obvious to incorporate the teaching of Carolan into the teaching of Horstmann to display a link to a web site associated with said first entity. The modification would have been obvious because one of ordinary skill in the art would have been motivated so that the link (brand indicia) are presented to the user according to the branding data each time the corresponding entity is accessed.

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As Per Claim 4, the rejection of claim 3 is incorporated and further the combination of Horstmann and Carolan teaches:

“providing instructions to said first computing device which affect the placement of said first link among one or more second links.” (E.g. see Carolan, FIG. 3, branding region 794 and associated text).

As Per Claim 29, Horstmann teaches a system for branding a computer program comprising: a first computing device which comprises:

“a memory which stores branding instructions for one of a plurality of entities (E.g. see col. 2:49-53)”;

Horstmann does not explicitly disclose a network interface communicatively coupled to a computer network and logic which communicates one of a plurality of sets of branding instructions to a second computing device through said network interface. However, Carolan in an analogous art teaches “a network interface (E.g. see FIG. 2A, network interface device 201 and associated text) communicatively coupled to a computer network and logic which communicates one of a plurality of sets of branding instructions to a second computing device (E.g. see FIG. 1, client 101-104 and associated text) through said network interface”. Therefore, it would have been obvious to incorporate the teaching of Carolan into the teaching of Horstmann to use a network interface to communicate branding instructions to a second computing device. The modification would have been obvious because one of ordinary skill in the art would have been motivated so that the link (brand indicia) are presented to the more computer devices (in same computer network).

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As Per Claim 30, the rejection of claim 29 is incorporated and further the combination of Horstmann and Carolan teaches:

“wherein said logic causes said instructions to be stored on a second computing device”
(Again, see as noted above of Claim 29).

5. Claims 6-7 and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horstmann in view of Bates et al. US Patent No. 6,037,935 (hereinafter Bates).

As Per Claim 6, the rejection of claim 5 is incorporated and Horstmann does not explicitly disclose providing a first and a second pages with links. However, Bates teaches “providing a first page which includes said link to said first web site; (see Fig. 4, item 411, (First Web Page)), and providing a second page which includes one or more links to one or more second web sites different from said first web site. (see Fig. 4, item 450, (Second Web Page) and associated text)”. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Bates into the system of Horstmann, to provide a first and a second pages with links. The modification would have been obvious because one of ordinary skill in the art would have been motivated to improve the convenience of browsing web pages by providing an indication of the degree of exploration for each page and for each link.

As Per Claim 7, the rejection of claim 6 is incorporated and Horstmann does not explicitly disclose providing first page includes a link to said first web site only and no other

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links. However, Bates teaches "first page includes a link to said first web site and does not include any other links to any other web site (E.g. see Fig. 4, item 442, (Link 2 Web Page) and associated text)". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Bates into the system of Horstmann, to provide a first and a second pages with links. The modification would have been obvious because one of ordinary skill in the art would have been motivated to improve the convenience of browsing web pages by providing an indication of the degree of exploration for each page and for each link.

As Per Claim 24, the rejection of claim 15 is incorporated and Horstmann does not explicitly disclose instructing said first computing device as to the manner in which a link to a network address is to be displayed on a list of network addresses. However, Bates teaches "instructing said first computing device as to the manner in which a link to a network address is to be displayed on a list of network addresses. (see Column 5, Lines 40-47)". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Bates into the system of Horstmann, to instructing said first computing device as to the manner in which a link to a network address is to be displayed on a list of network addresses. The modification would have been obvious because one of ordinary skill in the art would have been motivated to improve the convenience of browsing web pages by providing an indication of the degree of exploration for each page and for each link.

As Per Claim 25, the rejection of claim 24 is incorporated and Horstmann does not explicitly disclose limiting the set of said network addresses on said list. However, Bates teaches "limiting the set of said network addresses on said list. (E.g. see col. 5:40-47)". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Bates into the system of Horstmann, to limit the set of said network addresses on said list. The modification would have been obvious because one of ordinary skill in the art would have been motivated to improve the convenience of browsing web pages by providing an indication of the degree of exploration for each page and for each link.

As Per Claim 26, the rejection of claim 24 is incorporated and Horstmann does not explicitly disclose providing data on a list of network addresses automatically. However, Bates teaches "providing data on a list of network addresses automatically. (E.g. see col. 3:14-16 and col. 5:40-47)". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Bates into the system of Horstmann, to providing data on a list of network addresses automatically. The modification would have been obvious because one of ordinary skill in the art would have been motivated to improve the convenience of browsing web pages by providing an indication of the degree of exploration for each page and for each link.

6. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horstmann in view of Philyaw US Patent No. 6,636,896.

As Per Claim 9, the rejection of claim 1 is incorporated and further Horstmann does not explicitly disclose a cookie. However, Philyaw in an analogous art teaches "setting a cookie on said first computing device (E.g. see FIG. 13, ID 1304 and associated text)". Therefore, it would have been obvious to incorporate the teaching of Philyaw into the teaching of Horstmann to set a cookie on said first computing device. The modification would have been obvious because one of ordinary skill in the art would have been motivated so that the remote program running on a remote node can access PC information via a cookie setting.

As Per Claim 10, the rejection of claim 9 is incorporated and further Horstmann teaches:

"wherein said act of receiving said first data from said first computing device comprises receiving said cookie." (E.g. see FIG. 13, ID 1304 and associated text).

7. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horstmann in view of Chanos et al. US 2002/0120507A1 (hereinafter Chanos).

As Per Claim 11, the rejection of claim 1 is incorporated and Horstmann does not explicitly disclose first entity is a retailers. However, Chanos teaches "first entity is a retailers (E.g. see Page 4, Section 0041, and Page 14, Section 0129)". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Chanos into the system of Horstmann, to provide a first entity is a retailers. The modification would have been obvious because one of ordinary skill in the art would have been motivated to provide a customer multiple choices to purchase software.

As Per Claim 12, the rejection of claim 1 is incorporated and Horstmann does not explicitly disclose first entity is a distributor. However, Chanos teaches "first entity is a distributor. (E.g. see Page 4, Section 0041 and Page 14, Section 0129)". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Chanos into the system of Horstmann, to provide a first entity is a distributor. The modification would have been obvious because one of ordinary skill in the art would have been motivated to provide a customer multiple choices to purchase software.

As Per Claim 13, the rejection of claim 1 is incorporated and Horstmann does not explicitly disclose first entity is a wholesaler. However, Chanos teaches "first entity is a wholesaler (E.g. see Page 4, Section 0041 and Page 14, Section 0129)". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Chanos into the system of Horstmann, to provide a first entity is a wholesaler. The modification would have been obvious because one of ordinary skill in the art would have been motivated to provide a customer multiple choices to purchase software.

8. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Horstmann in view of Bukszar et al. US Patent No. 6,133,916 (hereinafter Bukszar).

As Per Claim 16, the rejection of claim 15 is incorporated and further Horstmann does not explicitly disclose receiving said information indicative of a first entity from a second entity

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identified in an image hidden within a web page. However, Bukszar in an analogous art teaches "receiving said information indicative of a first entity from a second entity identified in an image hidden within a web page". (E.g. see col. 3:45-53). Therefore, it would have been obvious to incorporate the teaching of Bukszar into the teaching of Horstmann to provide an image hidden within a web page. The modification would have been obvious because one of ordinary skill in the art would have been motivated to personalize a web page with different behaviors based on user preference.

9. Claims 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horstmann in view of Bukszar, further in view of Philyaw.

As Per Claim 17, the rejection of claim 16 is incorporated and further the combination of Horstmann and Bukszar does not explicitly disclose a cookie. However, Philyaw in an analogous art teaches "wherein said second entity causes a cookie to be set on said first computing device (E.g. see FIG. 13, ID 1304 and associated text)". Therefore, it would have been obvious to incorporate the teaching of Philyaw into the combination teaching of Horstmann and Bukszar to set a cookie on said first computing device. The modification would have been obvious because one of ordinary skill in the art would have been motivated so that the remote program running on a remote node can access PC information via a cookie setting.

As Per Claim 18, the rejection of claim 17 is incorporated and further Horstmann teaches:

"wherein said cookie contains information specific to a branding device." (E.g. See Fig. 4, identifying information 405 and associated text).

As Per Claim 19, the rejection of claim 17 is incorporated and further Horstmann teaches:

“wherein said cookie contains information identifying said branding instructions to be downloaded to said first computing device.” (E.g. See Fig. 4, identifying information 405 and associated text).

As Per Claim 20, the rejection of claim 15 is incorporated and further Horstmann teaches:

“wherein said act of providing branding data further comprises sending said cookie from said first computing device.” (E.g. See Fig. 4, identifying information 409 and associated text).

As Per Claim 21, the rejection of claim 20 is incorporated and further Horstmann teaches:

“wherein said cookie comprises information indicative of said first entity. ” (E.g. See Fig. 4, identifying information 405 and associated text).

As Per Claim 22, the rejection of claim 20 is incorporated and further the combination teaching of Horstmann, Bukszar and Philyaw teaches:

“wherein said cookie comprises information associated with a second computing device.”
(Again, as noted above of Claim 17, see Philyaw FIG.3, PC 300, 303 and associated text).

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Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kuo-Liang J Tang whose telephone number is 703-305-4866.

The examiner can normally be reached on M-F 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q Dam can be reached on 703-305-4552.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9306.

Kuo-Liang J. Tang

Software Engineer Patent Examiner

Hoang Anthony Nguyen Ba

ANTONY NGUYEN-BA
PRIMARY EXAMINER